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6 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
7

8 JEREMY OLSEN,

9 Plaintiff,

10 v.

11 XAVIER BECERRA, in his official
12 capacity as Secretary of the United
13 States Department of Health and
Human Services,

14 Defendant
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No. 2:21-cv-00326-SMJ

NOTICE OF INCOMPLETE
ADMINISTRATIVE RECORD

1 Plaintiff Jeremy Olsen's file this notice that the administrative record
2 filed by the Secretary on February 14, 2022 (*see* Dkt. #15) is incomplete and
3 (just like the failure to file the record with the Answer as required by 42
4 U.S.C. 405(g)), the failure to produce a complete record is preventing Olsen
5 from filing a motion for summary judgment.
6

7 In particular, at issue in this case is ALJ Appeal No. 3-10205345873
8 related to Olsen's March 10, 2021, receipt of sensors for use with his CGM.
9 See Complaint at ¶¶ 67-90. On review of the record served by the Secretary,
10 it appears that the following items (at least) are missing from the record:
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- 12 1) the MSN reflecting rejection of Mr. Olsen's March 10, 2021,
13 claim;
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- 15 2) the redetermination rejecting Mr. Olsen's March 10, 2021 claim;
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- 17 3) the request for an ALJ and brief;
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- 19 4) a transcript of the hearing held on October 8, 2021; and
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- 21 5) the October 30, 2021, decision of ALJ Earnhart.

22 Because these are some of the materials on which Olsen's motion for
23 summary judgment would be based, the Secretary's failure to produce them
24 as required by the statute is preventing Mr. Olsen from filing.

25 Plaintiff has notified the Secretary of this deficiency.
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2 Respectfully submitted this 24th day of February, 2022.
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5 PARRISH LAW OFFICES
6

7 By: /s/ James C. Pistorino
8 James C. Pistorino
9 Pro Hac Vice

10 BRESKIN, JOHNSON, & TOWNSEND,
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18 *Attorneys for Plaintiff*
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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the state of Washington that on the date below, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Vanessa R. Waldref
United States Attorney
John T. Drake
Assistant United States Attorney
UNITED STATES DEPARTMENT OF JUSTICE
920 W. Riverside Ave, Suite 340
Spokane, WA 99201

DATED this 24th day of February, 2022, at Seattle, Washington.

s/ Julia Wolfe
Julia Wolfe, Legal Assistant